

### REMARKS

Claims 1 and 2 have been amended, claim 3 has been rewritten in independent form and claims 13 to 29 have been canceled subject to reinstatement in a divisional application. Claims 1 to 12 remain active in this application of which claims 3 to 8 have been indicated to be allowable.

The specification has been amended to correct errors kindly noted by the examiner as well as other minor errors.

Claims 1, 2 and 9 to 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yeh et al. (U.S. 6,064,107) in view of Dixit et al. (U.S. 2005/0051812). The rejection is respectfully traversed.

To begin with, Dixit et al. is not a proper reference since the filing date thereof is subsequent to that of the subject application. There is no showing on the record as to the content of the provisional application and, accordingly, the provisional application is not of record.

However, assuming arguendo that the content of the Dixit et al. properly sets forth that subject matter for which it is cited, the rejection is still without merit. Claim 1 requires, among other steps, the step of removing both the form structure and the spacer. No such step is taught or suggested by Yeh et al., Dixit et al. or any proper combination of these references. either alone or in the combination as claimed.

Claim 1 further requires the step of forming a gate structure disposed along the top and sides of a central portion of the formed semiconductor body, the gate structure comprising a conductive gate electrode and a gate dielectric disposed between the gate electrode and the formed semiconductor body. While Dixit et al. may show a gate structure disposed over and on the sides of the channel region, there is no teaching or even a remote suggestion to provide such a structure in Yeh et al., especially since the sidewall in Yeh et al. remains throughout the fabrication of the Yeh et al. structure. To alter Yeh et al. in the manner suggested by the examiner would require a substantial alteration of the structure as well as the method of fabricating the structure of Yeh et al. which can be contemplated only after an initial study of the subject disclosure.

Claims 2 and 9 to 12 depend from claim 1 and therefore define patentably over the applied references for at least the reasons presented above with reference to claim 1.

Claim 2 further limits claim 1 by requiring that the gate structure be formed along at least a portion of the top and sides of the central portion. No such combination is taught or suggested by the applied references for reasons stated above.

Claim 9 further limits claim 1 by requiring that the step of forming the spacer include the steps of depositing a spacer material layer over the form structure and over the exposed starting structure and etching the spacer material layer to expose a portion of the starting structure, leaving a portion of the spacer material layer extending over part of the starting structure along the sidewall of the form structure opening. No such step is taught or suggested by Yeh et al., Dixit et al. or any proper combination of these references either alone or in the combination as claimed.

Claim 10 further limits claim 9 by requiring that the step of depositing the spacer material layer comprise depositing silicon nitride over the form structure and over the exposed starting structure. No such combination is taught or suggested by the applied references for reasons stated above.

Claim 11 further limits claim 9 by requiring that the step of removing the form structure and the spacer comprise wet etching the form structure and the spacer, leaving the formed semiconductor body having a single generally planar bottom surface above the starting structure. No such combination is taught or suggested by the applied references for reasons stated above.

Claim 12 further limits claim 9 by requiring that the spacer material layer be deposited using chemical vapor deposition or atomic layer deposition. No such combination is taught or suggested by the applied references for reasons stated above.

In view of the above remarks, favorable reconsideration and allowance are respectfully requested.

Respectfully submitted,



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